

Panaji, 21st July, 2016 (Asadha 30, 1938)

SERIES II No. 16

OFFICIAL GAZETTE

GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

GOVERNMENT OF GOA

Department of Agriculture

Directorate of Agriculture

Corrigendum

No. 8/124/2016-17/KVK-F.M/D.Agri/121

Read: Appointment order No. 8/124/2016-17/KVK-F.M/D.Agri/82 dated 14-06-2016.

In the above referred appointment order the name of the incumbent may be read as "Smt. Shruti S. Dhupkar" instead of "Smt. Shruti S. Dupkar".

By order and in the name of the Governor of Goa.

U. B. Pai Kakode, Director & ex officio Joint Secretary (Agriculture).

Tonca-Caranzalem, 15th July, 2016.

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**Department of Civil Supplies and
Consumer Affairs**
Order

No. DCS/ADCS/CCC/2016-17/39

Read: Notification No. 1/3/2003-CSD dated 08-08-2003 published in the Official Gazette Series II No. 26 dated 25-09-2003.

Whereas the Government vide above read Notification has constituted the State Level Conciliation Committee to resolve the disputes through amicable settlement. The non-official members of the said committee are entitled for a sitting fee @ Rs. 800/- as per O.M. No. 9/10/2010-Fin(DMU)/140334963 dated 29-11-2011 for their sittings every fortnight (twice a month).

By order and in the name of the Governor of Goa.

Vikas S. N. Gaunekar, Director & ex officio Joint Secretary (Civil Supplies & Consumer Affairs).

Panaji, 27th May, 2016.

Department of Education, Art & Culture

Directorate of Education

Order

No. SCERT/RTE/Acad Auth/2016-17/624

Government of Goa notified on 2nd August, 2012, 'The Goa Right of Children to Free and Compulsory Education Rules, 2012' based on Central Act 35 of 2009 (RTE-2009) and the State Council of Educational Research & Training has been designated as Academic Authority.

For the purpose of laying down the curriculum and evaluation procedure for elementary education, Section 29(2) of the RTE Act mandates that the Academic Authority shall take into consideration inter-alia all round development of the child as well as that the Medium of Instruction (MoI) shall as far as practicable, be in the child's mother tongue.

Government of Goa after examining the matter in detail and consequent upon the decision taken in the meeting of Council of Ministers held on 6-6-2012 had earlier notified vide No. DE/PLG/MOI/Cabinet/2012-13/447 dated 18-6-2012 that teaching at the primary level (primary schools) shall be in the mother tongue of the child i.e. Marathi/Konkani as the case may be.

The Government has also extended financial grants to some English Medium Primary Schools. Presently there is a demand from the stakeholders in support to retain the financial grants to English Medium Primary Schools as well as from some to withdraw the financial grants extended to them. Academic Authority of Goa was accordingly of the view that there was a felt need for wider consultation and revisiting the issue for facilitating an appropriate decision on this matter.

It has now been decided to constitute a committee for the purpose of advising on the issue referred to above and arriving at an appropriate

decision in the matter. The Committee shall accordingly study the entire system of grants and financial support to Government Aided Schools for primary education and make its recommendations so as to improve its overall efficiency for achieving the stated educational goals of the State of Goa.

The composition of the Advisory Committee shall be as follows:

Sr. No.	Name	Designation
1.	Shri Bhaskar Nayak	— Chairman.
2.	Adv. Shri Jayant Mulgaonkar	— Member.
3.	Shri Kanta Patnekar	— Member.
4.	Shri J. R. Rebello	— Member.
5.	Prof. Madhav Kamat	— Member.
6.	Dr. Celsa Pinto	— Member.
7.	Dr. Allan Abreau	— Member.
8.	Prof. Datta B. Naik	— Member.
9.	Shri Celso Dias	— Member.
10.	Shri Anil Samant	— Member.
11.	Shri Madhav Borker	— Member.
12.	Shri Uday Ballikar	— Member.
13.	Shri Dilip Vasant Betkikar	— Member.
14.	Dr. Bhushan Bhawe	— Member.
15.	Shri Edward D'lima	— Member.
16.	Shri Prakash Paryekar	— Member.
17.	Shri. Nagraj Honnekeri	— Member.
		Secretary.

The committee shall be required to hold extensive consultations with various Civic Society organizations including Parent Teachers Associations (PTAs) and School Managing Committees (SMCs) preferably at Taluka Level, Primary Schools Teachers Associations and other Teachers Associations/Headmasters Associations, Principal Forums, Aided School Management Association, Educationists etc., to ascertain their views on the various aspects of the subject and may visit neighbouring State particularly, the areas of Konkan belt (Maharashtra, Karnataka and Kerala) to study the socio cultural dynamics of the matter in a wider perspectives.

The Committee may also refer to various expert reports including that of MHRD and International organisations for the benefit of latest development in pedagogical field. Besides, committee may consult any social/economic/linguistic/cultural groups or records as deemed fit.

The secretarial and logistics support to the Committee/Members shall be provided by the Directorate of Education.

The committee shall submit its report within 120 days from the date of issue of the notification.

During the term of office, every member will be entitled for the allowances @ Rs. 800/- per sitting as prescribed by OM No. 9/10/2010-Fin(DMU) dated 29-11-2011.

By order and in the name of the Governor of Goa.

G. P. Bhat, Director & ex officio Joint Secretary (School Education).

Porvorim, 15th July, 2016.

Directorate of Technical Education

College Section

Order

No. 16/150/Confirmation/GEC/04/P.F.I/1187

On the recommendations of the Goa Public Service Commission conveyed vide their letter No. COM/II/12/18(1)/2013/142 dated 16-06-2016, the Government of Goa is pleased to declare the following Group 'A', Gazetted Officer of Goa College of Engineering, Farmagudi, Ponda-Goa to have satisfactorily completed their probation period and confirm them in the post with effect from date mentioned in the respective column against their names.

Sr. No.	Name of the incumbent	Designation	Date of confirmation
1.	Shri Sayeesh Dayanand Habbu	Assistant Professor in Humanities & Science-English & Communication Skill	15-07-2015.
2.	Shri Milind Lui Fernandes	Assistant Professor in Electronics & Telecommunication Engineering	13-08-2015.

By order and in the name of the Governor of Goa.

Vivek B. Kamat, Director & ex officio Addl. Secretary (Technical Education).

Porvorim, 13th July, 2016.

Department of Elections

Office of the Chief Electoral Officer

Date given for taking delivery: 01-04-2016.

Date on which copy was ready: 28-03-2016.

Date on which copy was delivered:

Notification

No. 8-14-2015/ELEC/361

The following Notification No. 82/GOA-LA/5/2007 dated 23-06-2016 issued by the Election Commission of India, New Delhi, is hereby published for general information.

Narayan S. Navti, Chief Electoral Officer.

Panaji, 4th July, 2016.

Sd/-

Section Officer

High Court of Bombay at Goa
Panaji-Goa.

By Order,

Standhope Yuhlung

Pr. Secretary,

Election Commission of India

ELECTION COMMISSION OF INDIA

Nirvachan Sadan,
Ashoka Road,
New Delhi - 110001.

Dated: 23rd June, 2016.
2 Ashadha, 1938 (Saka)

Notification

No. 82/GOA-LA/5/2007— In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the Judgement/Order dated 22nd October, 2010 of the High Court of Bombay at Goa, Panaji-Goa, in Election Petition No. 5 of 2007.

IN THE HIGH COURT OF BOMBAY AT GOA

ELECTION PETITION No. 5 of 2007

Smt. Fermeena P. Khaunte ... Petitioner.

Versus

Dayanand Narvekar and 15 Ors., ... Respondents.

Mr. A. Gaonkar, Advocate holding for Mr. S. G. Dessai, Advocate for Respondent No. 1.

Coram:- N. A. Britto, J.

Date:- 22nd October, 2010.

P. C.,

The Petitioner nor Petitioner's counsel are present. Petitioner has been consistently remaining absent. It appears that the Petitioner is not interested in prosecuting the Petition. The Petition is dismissed for Non Prosecution.

N. A. Britto, J.

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Certified Copy

Date on which copy was applied for: 23-03-2016.

Date on which application was completed: 23-03-2016.

भारत निर्वाचन आयोग

निर्वाचन सदन,

अशोक रोड,

नई दिल्ली-११०००१

२३ जून, २०१६

तारीख: २ आषाढ, १९३८ (शक)

अधिसूचना

संख्या:- ८२/गोवा-वि.स./५/२००७- लोक प्रतिनिधित्व अधिनियम, १९५१ (१९५१ का ४३) की धारा १०६ के अनुसरण में, भारत निर्वाचन आयोग, २००७ की निर्वाचन याचिका सं. ५ में गोवा, पणजी, गोवा में मुम्बई उच्च न्यायालय के दिनांक २२ अक्टूबर, २०१० का निर्णय/आदेश एतद्वारा प्रकाशित करता है।

आदेश से,

स्टेण्डहोप युहलुंग

प्रधान सचिव,

भारत निर्वाचन आयोग

Notification

No. 8-14-2015/ELEC/363

The following Notification No. 82/GOA-LA/4/2007 dated 23-06-2016 issued by the Election Commission of India, New Delhi, is hereby published for general information.

Narayan S. Navti, Chief Electoral Officer.

Panaji, 6th July, 2016.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan,
Ashoka Road,
New Delhi - 110001.

Dated: 23rd June, 2016.
2 Ashadha, 1938 (Saka)

Notification

No. 82/GOA-LA/4/2007— In pursuance of Section 106 of the Representation of the People Act, 1951, (43 of 1951), the Election Commission of India hereby publishes the judgement/order dated 31st August, 2012 of the High Court of Bombay at Goa, Panaji, Goa, in Election Petition No. 4 of 2007.

IN THE HIGH COURT OF BOMBAY AT GOA

ELECTION PETITION No. 4 of 2007

Shri Pradeep Janardhan ... Petitioner.
Khaunte

Versus

Dayanand Narvekar and 12 Ors., ... Respondents.

Mr. S. M. Walawaikar, Advocate for the Petitioner.
Mr. S. G. Dessai, Senior Advocate with Mr. Anup Gaonkar, Advocate for the Respondent No. 1.

Coram:- F. M. Reis, J.

Date:- 31st August, 2012.

P C.,

In view of the leave granted to the Petitioner to withdraw the above Petition, the Petition stands dismissed as withdrawn subject to the Petitioner paying costs of Rs. 25,000/- to the Respondent No. 1.

F. M. Reis, J.

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Certified Copy

Date on which copy was applied for: 17-05-2016.
Date on which application was completed: 17-05-2016.
Date given for taking delivery: 17-05-2016.
Date on which copy was ready: 17-05-2016.
Date on which copy was delivered: 17-05-2016.

Sd/-

Section Officer
High Court of Bombay at Goa
Panaji-Goa.

By Order,

Standhope Yuhlung

Pr. Secretary,
Election Commission of India

भारत निर्वाचन आयोग

निर्वाचन सदन,
अशोक रोड,
नई दिल्ली-११०००१

तारीख: २३ जून, २०१६
२ आषाढ, १९३८ (शक्)

अधिसूचना

संख्या:- ८२/गोवा-वि.स./४/२००७- लोक प्रतिनिधित्व अधिनियम, १९५१ (१९५१ का ४३) की धारा १०६ के अनुसरण में, भारत निर्वाचन आयोग, २००७ की निर्वाचन याचिका सं. ४ में गोवा, पणजी, गोवा में मुम्बई उच्च न्यायालय के दिनांक ३१ अगस्त, २०१२ का निर्णय/आदेश एतद्वारा प्रकाशित करता है।

आदेश से,

स्टेण्डहोप युहलुंग

प्रधान सचिव,

भारत निर्वाचन आयोग

Department of Home

Home—General Division

Order

No. 1/13/2003-HD(G)/PF 2/2300

Read: 1) Order No. 1/13/2003-HD(G)/PF2/899 dated 09-03-2016.

2) Order No. 1/13/2003-HD(G)/PF2/1650 dated 13-05-2016.

In continuation of Order No. 1/13/2003-HD(G)/PF2/1650 dated 13-05-2016 of this Department, Government of Goa hereby relieves Shri Anil D. Meshram, Inspector CISF Unit KSTPP Korba (CG) of Border Security Force, New Delhi from the post of Dy. Superintendent of Police, Group 'B', Gazetted, 2nd India Reserve Battalion, Goa, with effect from 14-05-2016 (a.n.).

By order and in the name of the Governor of Goa.

Neetal P. Amonkar, Under Secretary (Home).

Porvorim, 12th July, 2016.

Department of Information Technology

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Order

No. 5(8)/2008/DOIT/Per-Pra-Vol/Dy. Dir(Tech)/357

Read: No. 5(8)/2008/DOIT per-pra-Vol/Dy.Dir (Tech)/248 dated 30-05-2016.

In addition to the above order Government is pleased to extend the deputation period of Shri Praveen Ramnath Volvotkar, Director (Administration), in Sports Authority of Goa, for further period of one year i.e. from 03-06-2016 to 02-06-2017, vide No. 3462/F dated 27-05-2016.

By order and in the name of the Governor of Goa.

Ameya Abhyankar, IAS, Director & ex officio Joint Secretary (IT).

Porvorim, 28th June, 2016.

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Department of Labour

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Order

No. 24/18/2015-Lab-ESI/466

Read: Memorandum No. 24/18/2015-Lab-ESI/354 dated 23-5-2016.

On the recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/I/5/28(1)/2015/124 dated 3-3-2016, Government is pleased to appoint Dr. Mita Mahesh Verlekar to the post of Ayurvedic Doctor in E.S.I. Hospital, under ESI Scheme in Labour Department on temporary basis in the Pay Band-3, Rs. 15,600-39,100+Grade Pay of Rs. 5,400/- with immediate effect and as per the terms and conditions contained in the Memorandum cited above.

Dr. Mita Mahesh Verlekar shall be on probation for a period of two years.

Dr. Mita Mahesh Verlekar has been declared medically fit by the Medical Board.

The appointment is made subject to the verification of her character and antecedents. In the event of any adverse remarks noticed by the Government on verification of her character and antecedents, her services shall be terminated.

The expenditure shall be debited to the Budget Head: 2210—Medical and Public Health; 01—Urban Health Services—Allopathy; 102—Employees

State Insurance Scheme; 01—Implementation of Employees State Insurance Scheme (Plan); 01—Salaries.

The appointment is made against the post created vide order No. 24/9/89-Lab-Part/80 dated 10-1-2008 and subsequently revived vide order No. 24/17/2013-Lab-ESI/467 dated 28-4-2015.

By order and in the name of the Governor of Goa.

Shashank V. Thakur, Under Secretary (Labour).

Porvorim, 8th July, 2016.

Order

No. 28/26/2016-LAB/474

Whereas the Government of Goa is of the opinion that an industrial dispute exists between the management of M/s. Pfizer Limited, Verna Industrial Estate, Verna, Salcete, Goa and their workman, Shri Suraj Kurtikar, Operator, in respect of the matter specified in the Schedule hereto (hereinafter referred to as the "said dispute");

And whereas the Government of Goa considers it expedient to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) (hereinafter referred to as the "said Act"), the Government of Goa hereby refers the said dispute for adjudication to the Labour Court-II of Goa at Panaji-Goa, constituted under Section 7(1) of the said Act.

SCHEDULE

- "(1) Whether the action of the management of M/s. Pfizer Limited, Verna Industrial Estate, Verna, Salcete-Goa, in dismissing its workman, namely, Shri Suraj Kurtikar, Operator, with effect from 23-12-2015, is legal and justified?
- (2) If not, what relief the workman is entitled to?"

By order and in the name of the Governor of Goa.

Shashank V. Thakur, Under Secretary (Labour).

Porvorim, 8th July, 2016.

Order

No. 28/27/2016-LAB/492

Whereas the Government of Goa is of the opinion that an industrial dispute exists between the management of M/s. Pfizer Limited, Verna Industrial Estate, Verna, Salcete, Goa and their workman, Shri Susen Jalmi, Operator, in respect of the matter specified in the Schedule hereto (hereinafter referred to as the "said dispute");

And whereas the Government of Goa considers it expedient to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) (hereinafter referred to as the "said Act"), the Government of Goa hereby refers the said dispute for adjudication to the Labour Court-II of Goa at Panaji-Goa, constituted under Section 7(1) of the said Act.

SCHEDULE

- "(1) Whether the action of the management of M/s. Pfizer Limited, Verna Industrial Estate, Verna, Salcete-Goa, in dismissing its workman, namely, Shri Susen Jalmi, Operator, with effect from 23-12-2015, is legal and justified?
- (2) If not, what relief the workman is entitled to?"

By order and in the name of the Governor of Goa.

Shashank V. Thakur, Under Secretary (Labour).
Porvorim, 8th July, 2016.

Notification

No. 28/11/2008-LAB-I/458

The following award passed by the Presiding Officer of the Industrial Tribunal-cum-Labour Court, at Panaji-Goa on 12-04-2016 under reference No. IT/27/09 in respect of Workmen, Represented by Goa Trade & Commercial Workers Union, Velho's Building, Panaji is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Shashank V. Thakur, Under Secretary (Labour).
Porvorim, 8th July, 2016.

IN THE INDUSTRIAL TRIBUNAL AND
LABOUR COURT
GOVERNMENT OF GOA
AT PANAJI

(Before Mr. Vincent D'Silva, Hon'ble Presiding Officer)

Ref. No. IT/27/09

Workmen,
Rep. by Goa Trade &
Commercial Workers Union,
Velhos' Building,
Panaji-Goa ... Workmen/Party I.

V/s

M/s. G. K. B. Vision Ltd.,
27 & 28, Pilerne Industrial Estate,
Pilerne-Goa ... Employer/Party II.

Workmen/Party I represented by Adv. Suhas Naik.

Employer/Party II represented by Adv. A. V. Nigalye.

AWARD

(Delivered on this the 12th day of the month of April of the year 2016)

By order dated 04-09-2009, bearing No. 28/11/2008-LAB-I, the Government of Goa in exercise of powers conferred by Section 10 (1)(d) of the Industrial Disputes Act, 1947 (for short The Act), has referred the following dispute to this Tribunal for adjudication.

- "(1) Whether the following demands raised by the Goa Trade & Commercial Workers Union (AITUC), Panaji-Goa vide letter dated 14-06-2007, before the management of M/s. GKB Vision Limited, Pilerne Industrial Estate, Pilerne-Goa, are legal and justified?

Demand No. 1: Appointment/Confirmation Letters

It is demanded to issue Appointment/Confirmation letters by the management to all the unionized workpersons who are not issued Appointment letters, mentioning the correct date of joining with designation.

Demand No. 2: Flat-rise in Basic and Pay-scales

- (a) It is demanded that all the workpersons shall be paid a flat rise at the rate of Rs. 1100/- per month over and above the existing basic salary as on 14-06-2006 PLUS a flat-rise of Rs. 1100/- per month be placed in the pay-scales given herein below:-

Grade	Designation	Pay-scale
B	Jr. Operator	800-85-1225-100-1725-115-2300-130-2950
C	Operator	900-100-1400-115-1975-130-2625-145-3350
D	Sr. Operator	1000-115-1575-130-2225-145-2950-160-3750
E	Sr. Operator	1100-130-1750-145-2475-160-3275-175-4150

- (b) The Annual Increment shall be in the month of January every year. Employees reaching the ceiling of the scale in the respective grades will receive increment last drawn by them in the applicable scale.

Demand No. 3: House Rent Allowance (HRA)

It is demanded that, with effect from 15-06-2007, each workperson shall be paid an additional amount of Rs. 600/- per month in the existing House Rent Allowance (HRA).

Demand No. 4: Fixed Dearness Allowance (FDA)

It is demanded that, with effect from 15-06-2007, each workperson shall be paid an amount of Rs. 800/- per month as the Fixed Dearness Allowance over and above the existing Fixed Dearness Allowance (FDA), if any.

Demand No. 5: Variable Dearness Allowance (VDA)

It is demanded that, with effect from 15-06-2007, each workperson shall be paid Variable Dearness Allowance (VDA) at the rate of Rs. 2/- per point over and above base AAICPI 1722 points (1960=100). The Variable Dearness Allowance (VDA) shall be revised every quarter.

Demand No. 6: Conveyance Allowance

It is demanded that, each workperson shall be paid Conveyance Allowance of Rs. 450/- per month in their existing Travelling Allowance with effect from 15-06-2007.

Demand No. 7: City Compensation Allowance

It is demanded that, with effect from 15-06-2007, each workperson shall be paid a sum of Rs. 400/- per month towards City Compensation Allowance.

Demand No. 8: Shift Allowance

It is demanded that, w.e.f. 15-06-2007, each workperson shall be paid a Shift Allowance on the following basis:-

1st Shift Allowance	—	Rs. 15/- per shift
2nd Shift Allowance	—	Rs. 25/- per shift and
3rd Shift Allowance	—	Rs. 35/- per shift

Demand No. 9: Out Door Food Allowance

It is demanded that, whenever a workman is sent on out-duty, he/she shall be paid an Out-Door Food Allowance towards breakfast, lunch, dinner, tea and snacks on the following pattern:-

Breakfast	—	Rs. 35/- per day
Lunch	—	Rs. 65/- per day
Dinner	—	Rs. 65/- per day
Tea and Snacks	—	Rs. 25/- per day

Demand No. 10: Leave Travel Allowance

It is demanded that, with effect from 15-06-2007, each workperson shall be paid Leave Travel Allowance (LTA) on the following basis:-

Grade - B	—	Rs. 4500/-
Grade - C	—	Rs. 5500/-
Grade - D	—	Rs. 6500/-
Grade - E	—	Rs. 7500/-

Demand No. 11: Overtime

- It is demanded that, each workperson shall be paid Overtime at double the rate of wages with retrospective effect. Whenever a worker is required to work on Sundays/Holidays and Weekly Off days, he shall be paid double the rate of wages with a paid compensatory-off which shall be allowed to be availed by the worker within 3 days of such work.
- It is demanded that, when a workman of a first shift is asked to wait for the overtime for the 2nd shift, he be provided overtime as mentioned above and company shall provide a vehicle to drop the employee at home or pay actual Transport Allowance.
- It is demanded that, with effect from 15-06-2007, whenever an employee is required to work on overtime for continuous 12 hours of duty, he/she shall be paid Food Allowance of Rs. 40/- per extra shift worked.

Demand No. 12: Leave Facilities

It is demanded that, the workperson shall be eligible to the following Leave facilities with effect from 15-06-2007.

- Privilege Leave : 23 days per annum with a facility to accumulate upto 100 days and encash leave above 50 days.

- (b) Casual Leave : 9 days per annum with a facility to accumulate upto 30 days or with a facility to encash the balance leave.
- (c) Sick Leave : 10 days per annum with a facility to accumulate upto 30 days.
- (d) Holidays : 14 days per annum to be finalized in the month of January every year between the Union and the Management.

Demand No. 13: Canteen

It is demanded that, the company shall have a full fledged subsidized canteen for all the workpersons with following facilities:-

- a) Snacks shall be provided with morning and evening tea.
- b) Fish curry rice shall be provided at fully subsidized rate.
- c) Twice in a week canteen shall provide Chicken/Rice at fully subsidized rate.
- d) A television shall be provided in the cafeteria.
- e) Tables and chairs shall be provided to accommodate 100 employees.
- f) The 'Canteen' menu shall be discussed with the Union/workmen.

Demand No. 14: Rest Room

It is demanded that, the well furnished fully equipped Rest-Room shall be provided at the factory with immediate effect since the workers are working in 3-shift operation and workmen employed in factory were more than 100.

Demand No. 15: Bonus

It is demanded that, 20% Bonus shall be paid to every employee on gross wages (BASIC+DA +VDA+HRA+ TA+OT +EDU.ALLOW+MISC.ALLOW+SHIFT-ALLOW) etc. without any ceiling. Annual bonus is to be disbursed eight days before the Ganesh Chaturthi.

Demand No. 16: Maternity Leave

It is demanded that, in addition to the entitlement of Maternity Leave and the Maternity benefits stipulate under the Employee's State Insurance Act, 1948 (39 of 1948), the Company shall allow 2-months of additional paid leave to all eligible women.

Demand No. 17: Uniforms/Washing Allowance/ Safety Shoes/Gum-boots/Raincoats/Towel

It is demanded that, each workperson shall be provided with the following facilities:

- (a) **Uniforms:-** That, with effect from 15-06-2007, each workperson shall be issued 2 sets of Uniforms every year in the month of January.
- (b) **Washing Allowance:-** That, with effect from 15-06-2007 each workperson shall be paid a sum of Rs. 250/- per month towards Washing Allowance.
- (c) **Safety Shoes/Gum Boots:-** Each workperson shall be given one pair of slippers, shoes/ footwear to be distributed in the month of January every year and a pair of Gum-boots/ rain sandals in the month of May i.e. last week of May every year.
- (d) **Towels:-** Each workperson shall be issued two towels for each year and two soaps of 100 gms. (Lifebuoy) each month.

Demand No. 18: Transfer

It is demanded that, GKB Vision Workers Managing Committee Members shall be treated as 'Protected Workmen' in terms of Rule 16 of the Industrial Disputes (Central) Rules, 1957, and the existing service conditions of these workmen shall remain unchanged.

Demand No. 19: Insurance

24-hours Group Personal Accident Insurance Scheme. It is demanded that, each worker shall be covered for all the 24 hours for accidents or death for a sum of Rs. 2.00 lakhs under the Group Personal Accident/Insurance Scheme.

Demand No. 20: Medical Check-up

It is demanded that, all the employees shall be provided with free medical check-up once in a year.

Demand No. 21: Death Relief Scheme

- (1) It is demanded that, if an employee dies during the normal course of employment, such employee shall be paid a sum of Rs. 1,50,000/- from the management to his family (legal heirs). This payment shall not have any bearing on the workmen's right to claim under the Workmen's Compensation Act, 1923 (8 of 1923).
- (2) It is demanded that, the Company shall pay a sum of Rs. 12,000/- towards funeral expense.

Demand No. 22 : Festival Advance

It is demanded that, each workperson shall be paid Rs. 4,000/- as festival advance to be deducted in 8-equal installments, at least 10 days prior to the following festival every year:-

- (a) Ganesh Chaturthi Festival.
- (b) Christmas Festival

Demand No. 23: X'mas Gift/Diwali Gift

It is demanded that, each workperson shall be presented with a X'mas or Diwali Gift every year costing not less than 1500/-.

Demand No. 24: Sanction of Leave

It is demanded that, whenever a workperson applies for leave the intimation regarding sanctioning of leave shall be made known to the concerned workmen within 6 hours of such application being made by an employee seeking leave.

Demand No. 25: Annual Picnic

It is demanded that, the Company shall finalize one day for annual Picnic and relieve all the workmen for Picnic and further it shall provide free food, free transport and beverages for attending the Picnic in any part of Goa.

Demand No. 26: Union Office

It is demanded that, a separate union office shall be provided to all the union office- bearers with tables, chairs, fans and telephone facility.

Demand No. 27: Home Drop for working in 2nd and 3rd Shift

It is demanded that, all employees shall be provided with home drops after 7.00 pm and those working in 2nd and 3rd shift operations.

Demand No. 28: Marriage Special Privilege

It is demanded that every employee who gets married shall be granted 7 days paid-leave.

Demand No. 29: Period of Settlement

It is demanded that the above demands dated 14-06-2007 are specifically for the period of 3 years effective from 15-06-2007 to 14-06-2010.

(2) If not, what relief the workmen are entitled to?

2. Upon receipt of the reference, it was registered as IT/27/09 and registered AD notices were issued to both the parties. Pursuant to service of notices, Party I filed the claim statement at Exb. 4 and Party II filed the written statement at Exb. 7. Party I then filed the rejoinder at Exb. 9.

3. In the claim statement, it is in short, the case of Party I that the demands raised by the Workmen/ Union in their Charter of Demands dated 14-06-2007 as mentioned in Schedule of the reference referred before the Tribunal be conceded in favour of the Workmen/Union with retrospective effect from 15-06-2007 along with the Payment of Arrears.

4. In the written statement, Party II denied the case set up by Party I and has claimed that the present reference filed by Party If does not survive in view of the settlements dated 30-01-2008 and 22-06-2009 signed between the management of the Party II and their workmen represented by GKB Vision Employees Union and Goa Vision Employees Union respectively which has been accepted by all workmen of the Party II. Party II further contended that the wages paid to the workers of the Party II are much higher than the minimum rates of wages prescribed for industrial establishment in other employments. They are favorably comparable to and are even higher than the wages paid and the benefits given to the workers in other industries in the region. The Party II has been paying bonus to its employees which is much higher than the prescribed rate and allocable surplus.

5. Party II further claimed that the settlement dated 30-01-2008 is signed by 66 workmen and the settlement dated 22-06-2009 is signed by 137 workmen. The Party II has around 226 workmen on its rolls in the factory. Hence, out of 230 workmen on the rolls of the Party II, 203 workers have signed the settlement. All benefits under the said settlements have been made available to all workers and they have accepted these benefits. Party II further claimed that 66 workmen are members of GKB Vision Union and 137 are members of Goa Vision Employees Union. The remaining workers are not members of any union. The Goa Trade & Commercial Workers Union, at whose instance the present Reference is made, does not have any members in the establishment of the Party II. The said Union is, therefore, incompetent to espouse the dispute. In any event, the dispute does not survive in view of the aforesaid settlements.

6. Issues were framed at Exb. 8.

7. In the course of proceedings, Party I represented by Goa Trade & Commercial Workers Union filed an application dated 19-02-2015 at Exb. 16 stating that the workmen employed at Party II have resigned from the membership of the Union and as such, the Union does not wish to pursue the matter on account of non co-operation by the workmen concerned and prayed that the

Party I Union be discharged from the matter, however my predecessor directed Advocate for Party I to produce documentary evidence to show that the workers have resigned from the Union, so also the address of the workers concerned, if available.

8. It is also a matter of record that Adv. Suhas Naik for Party I filed another application at Exb. 17 stating that the workmen employed at M/s. G.K.B. Vision Ltd. have resigned from the membership of the Union and that inspite of many intimations, the workmen have remained absent and failed to contact the Union office. He has also enclosed some of the resignation letters of the workmen involved in the reference and prayed that he may be discharged from the present matter and accordingly, my predecessor discharged Advocate Shri Suhas Naik from the present matter.

9. During the course of proceedings, notices were issued to Party I/Workmen and the Managing Director of Party II who were directed to display the notice on their office Notice Board for formation of the workmen. The said Notice was displayed in the office Notice Board of Party II and the Compliance Report has been filed by one Kiran Chipkar, Manager (Admn.), M/s. G.K.B. Vision Ltd., stating that he is responsible for and look after the Personnel and Administrative function of M/s. G. K. B. Vision Ltd., and that he displayed a notice on the Notice Board at the main gate of factory of M/s. G. K. B. Vision Ltd., situated at 27 & 28, Pilerne Industrial Estate, Bardez.

10. It is seen from the records that inspite of the notices displayed on the Notice Board of Party II, the workmen employed at M/s. G. K. B. Vision Ltd. have failed to pursue their case. The resignation letters produced on record of some of the workmen by Adv. Suhas Naik clearly show that they have resigned from the membership of Union and are not interested in pursuing the said reference. The workmen have also not responded to the notice displayed on the office Notice Board of Party II, whereby it was clearly mentioned that the matter would be heard and determined in their absence, in case they fail to remain present.

11. The Party I/Workmen have been duly served with the notice after Adv. Suhas Naik has withdrawn from the matter. It therefore, appears the Party I/Workmen are not interested in pursuing the case. Adv. A. Nigalye on behalf of Party II has filed an application stating that Party II is also not producing evidence in the matter since the Party I/Workmen have not adduced any evidence in support of their claim/Charter of Demands. Needless to mention, the burden of proving the

case referred to the Tribunal for adjudication by the Government lies on the Workmen and that burden of proof never shifts. The Party I having failed to discharge the burden of proving the case, I am unable to record any findings on the issue referred to the Tribunal by the Appropriate Government for want of evidence adduced by the Party I in support of said issue. The Party I having failed to lead any evidence, the reference is bound to be answered against the workmen.

12. In the result, I pass the following:

ORDER

1. The reference is answered against the Workmen/Party I.
2. No order as to costs.
3. Inform the Government accordingly.

Sd/-
(Vincent D'Silva)
Presiding Officer,
Industrial Tribunal
& Labour Court

Notification

No. 28/13/2014-LAB/463

The following award passed by the Presiding Officer of the Labour Court-II, at Panaji-Goa on 04-03-2016 under reference No. LC-II/IT/02/2014 in respect of Shri Dnyaneshwar Chopde, Workman, represented by Gomantak Mazdoor Sangh, is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Shashank V. Thakur, Under Secretary (Labour).

Porvorim, 8th July, 2016.

IN THE LABOUR COURT-II
GOVERNMENT OF GOA
AT PANAJI

(Before **Shri Suresh N. Narulkar**, Hon'ble
Presiding Officer)

Case No. Ref. LC-II/IT/02/14

Shri Dnyaneshwar Chopde,
Rep. by Gomantak Mazdoor Sangh,
G-5, Macedo Appts., Tisk,
Ponda-Goa ... Workman/Party I.
V/s

M/s. Goa State Co-operative Milk
Producers Union Ltd.,
Curti, Ponda-Goa ... Employer/Party II.

Workman/Party I represented by Shri P. Gaonkar.
Employer/Party II represented by Adv. P. Chawdikar.

Panaji, Dated: 04-03-2016.

AWARD

1. In exercise of the powers conferred by Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Goa, by Order dated 24-02-2014, bearing No. 28/13/2014-LAB/158 referred the following dispute for adjudication to the Industrial Tribunal of Goa. The Hon'ble Presiding Officer, Industrial Tribunal-cum-Labour Court, in turn assigned the present dispute to this Labour Court-II vide her order dated 26-02-2014.

"(1) Whether the action of the management of M/s. Goa State Co-op. Milk Producers Union Limited, Curti, Ponda, Goa, in refusing employment to its Workman, Shri Dnyaneshwar T. Chopde, with effect from 01-02-2013 is legal and justified?

(2) If not, what relief the Workman is entitled to?"

2. On receipt of the reference, a case was registered under No. LC-II/IT/2/14 and registered A/D notice was issued to the Parties. In pursuance to the said notice, both the parties put in their appearance. The Workman/Party I (for short, 'Workman') filed his statement of claim on 02-04-2013 at Exb. 5. The facts of the case in brief as pleaded by the Workman are that the Employer/Party II (for short "Employer") is an industrial establishment situated at Curti, Ponda-Goa. He stated that he was working as 'worker' with the Employer since the year 2003 on daily wage basis. He stated that he was regularized in service with effect from 01-10-2010. He stated that since his joining, he was posted as Lab. Attendant in Quality Control department of the Employer.

3. He stated that he met with motor vehicle accident on 23-12-2011 at Dharbandora-Mollem road, while going to his native place. He stated that he had to admit in the Goa Medical College due to the said accident. He stated that due to his accident, he was on ESIC leave. He stated that he was under the treatment of Goa Medical College and thereafter under ESIC dispensary Ponda. He stated that he was under ESIC leave for the period 23-12-2011 till 31-01-2013. He stated that during the said period, he had submitted his medical certificate to the Employer as well as ESIC.

4. He stated that he requested the Employer to allow him to resume duties from 01-02-2013, vide his letter dated 30-01-2013. He stated that he was however, not allowed to resume the duties, inspite of submitting the medical fitness certificate from the ESIC doctors. He stated that Gomantak Mazdoor Sangh (for short, 'the said union') therefore raised an industrial dispute before the Asstt. Labour Commissioner, Ponda for his intervention in the matter of refusal of employment. He stated that when he raised an industrial dispute, he was asked to go for medical examination before the doctors of Goa Medical College. He stated that accordingly, he was medically examined 03-04-2013 by the doctors of the GMC, Bambolim-Goa and was issued a medical certificate dated 04-04-2013. He stated that the Goa Medical College issued a medical fitness certificate dated 10-04-2013 at the request of the Employer. He stated that he was however, not allowed to resume the duties.

5. He stated that initially the Employer was a department of the Government of Goa and the employees of the Employer were governed by CCA-CCS Rules. He stated that subsequently, the Employer was converted into a co-operative dairy and assurance was given to all the employees of the Employer that they will be given benefits at par with the employees of the State Government. He stated that even today, the appointments are subject to the approval of the Registrar of the Co-op. Societies. He stated that as the employees are extended with all the benefits of the State Government employees, he is entitled for the benefit under the Person with Disabilities (Equal Opportunities, Protection of Right and Full Participation) Act, 1995. He submitted that he is entitled for reinstatement with full back wages and continuity in service under the said Act. He stated that the conciliation proceeding ended in failure.

6. The Workman challenged his refusal of employment by contending that before refusal of his employment, the Employer has not conducted any enquiry and as such violated the principles of natural justice. He submitted that before refusal of his employment, the Employer has not paid his legal dues such as notice pay, retrenchment compensation etc., and as such violated the Sec. 25-F of the I.D. Act, 1947. He submitted that refusal of employment to him is in violation of the principles of natural justice and as such it is illegal, unjustified and bad-in-law. He submitted that after refusal of employment, he is unemployed. He therefore prayed that the action of the Employer in refusing him employment w.e.f. 01-02-2013 be declared as illegal, unjustified and he be granted relief of reinstatement with full back wages and continuity in service with consequential benefits.

7. The Employer resisted the claim of the Workman by filing his written statement on 27-06-2014 at Exb. 7. The Employer, by way of preliminary objections submitted that the present reference filed by the Workman is bad-in-law and hence not maintainable. The Employer submitted that the Workman has not given any justification for demands/claims raised by him. The Employer submitted that it is not an 'industry' and hence the present dispute of the Workman is not "Industrial Dispute" as defined under the Industrial Disputes Act, 1947, The Employer submitted that there is no application of mind by the Appropriate Government while referring the present dispute.

8. The Employer stated that it is not an industrial establishment, but a co-operative society registered under the Maharashtra Co-op. Societies Act, then applicable to the State of Goa and the same is now governed under the Goa Co-op. Societies Act and the Rules framed thereunder. The Employer stated that its establishment is located at Curti, Ponda, Goa. The Employer stated that the Workman has filed the present dispute just to pressurize and harass the Employer without justifiable reasons. The Employer admitted that it has been reported to them that on 23-12-2011, while going to his native place, the Workman met with major accident on Dharbandora-Mollem road and was admitted in Goa Medical College. The Employer further admitted that the Workman was on ESIC leave from 23-12-2011 till 31-01-2013 and was under the treatment of Goa Medical College and thereafter under ESIC Dispensary, Ponda. The Employer admitted that the Workman, vide his letter dated 30-01-2013 had requested them to allow him to resume the duty from 01-02-2013 along with the fitness certificate of the ESIC doctor. The Employer stated that the Workman is unable to perform his regular duties, which he used to perform before the accident.

9. The Employer submitted that vide its letters dated 28-02-2013 and dated 05-04-2013, they had asked the Workman to get the medical fitness certificate from the Goa Medical College, in order to allow him to resume his regular duties. The Employer stated that however, the Workman till date failed to get such fitness certificate and as such they are not in a position to allow him to resume his regular duties. The Employer stated that the Workman has submitted the certificates dated 04-04-2013 and 10-04-2013 obtained from the Goa Medical College, wherein, it has been mentioned that he is fit for the desk job/work. The Employer stated that presently, they are not having such vacancy, which can be allotted to the

workman. The Employer stated that in the said certificate, it is not mentioned that the Workman is fit to resume for his regular duties. The Employer stated that however, it may be noted that the Workman has submitted ESI certificate whereby, he has been declared as permanent disable, no further improvement possible with treatment. The Employer stated that however, in order to find out workman's working ability, they had directed him to submit his working ability from Goa Medical College, Bambolim-Goa, vide their letter dated 19-06-2013, but till date; no such certificate has been produced by him. The Employer stated that in absence of the same, they are unable to come to a decision as whether he is fit to commence his regular duties. The Employer stated that they do not have any suitable desk job, which can be allotted to the Workman till date. The Employer stated that they did not initiate any enquiry against the Workman till date only on the humanitarian ground and therefore it is not correct to say that they have not followed the proper procedure with due regards to the principles of natural justice as alleged by the workman. The Employer stated that they have not initiated enquiry against the Workman till date to get medical fitness certificate to carry out his regular duties. The Employer stated that till date, they have not received any medical fitness certificate of the Workman to suggest that he is fit to carry out his regular duties, which he was performing earlier. The Employer denies the overall case of the Workman as pleaded by him and prayed for dismissal of the present reference.

10. Thereafter, the Workman filed his re-joinder on 11-07-2014 at Exb. 8. The Workman, by way of his Re-joinder, reiterates and confirms all the submissions and averments made by him in his Claim Statement to be true and correct and denies all the statements and averments made by the Employer in its Written Statement which are contrary and inconsistent with the statements and averments made by him. The Workman stated that the Employer is a factory having boiler, plant and machinery and they produce and sell the milk products in market and as such the Employer is an 'industry' as defined under the I.D. Act, 1947.

11. Based on the pleading filed by the respective parties, this court framed the following issues on 28-07-2014 at Exb. 9.

1. Whether the Workman/Party I proves that the action of the management of the Employer in refusing him employment w.e.f. 01-02-2013 is illegal and unjustified?

2. Whether the Employer/Party II proves that it is not an 'Industry' as defined u/s 2(j) of the I. D. Act, 1947?
3. Whether the Employer/Party II proves that the present reference is bad-in-law and not maintainable, in view of the preliminary objections mentioned in para (i) to (iv) of the written statement?
4. Whether the Workman is entitled to any relief?
5. What order? What Award?

12. My answers to the aforesaid issues are as under:

- (a) Issue No. 1 : In the affirmative.
- (b) Issue No. 2 : In the negative.
- (c) Issue No. 3 : In the negative.
- (d) Issue Nos. 4 and 5 : As per final order.

REASONS

I have heard the oral arguments of Id. Rep. Shri P. Gaonkar, appearing for the Workman as well as Ld. Adv. Shri P. Chawdikar, appearing for the Employer.

13. Ld. Rep. Shri P. Gaonkar, representing the Workman, during the course of his oral arguments submitted that admittedly, the Workman was working as 'worker' with the Employer since 2003 till he was refused employment w.e.f. 01-02-2013. He submitted that the Workman had met with an accident on 23-12-2011 at Dharbandora-Mollem road, while going to his native place. He submitted that the Workman was therefore admitted in Goa Medical College, Bambolim-Goa. He submitted that since the date of his accident, the Workman was on ESIC leave and was under the treatment of Goa Medical College and thereafter under ESIC Dispensary, Ponda. He submitted that the Workman, vide his letter dated 30-01-2013, had requested the Employer to allow him to resume the duty from 01-02-2013 along with his medical fitness certificate issued by ESIC doctor. He submitted that the Workman was however, not allowed to resume the duty. He submitted that when the Workman raised an industrial dispute, he was asked to go for medical examination in Goa Medical College, which he undergone on 03-04-2013 and accordingly, he was issued a medical fitness certificate dated 04-04-2013. He submitted that the Goa Medical College has also issued another medical fitness certificate dated 10-04-2013 to the Workman at the request of the Employer, however, he was not allowed to resume his duties. He therefore submitted that the refusal of the

employment to the Workman w.e.f. 01-02-2013 is illegal and unjustified as it is in violation of principles of natural justice. He submitted that neither the Workman was paid his legal dues such as notice pay, retrenchment compensation etc. as per Sec. 25-F of the I. D. Act, 1947, nor conducted any enquiry against the Workman. He submitted that the Employer, in its written statement filed in the present proceedings, as and by way of preliminary objections, submitted that neither it is an 'industry', nor the dispute raised by the Workman is an 'industrial dispute' as defined under the Industrial Disputes Act, 1947. He submitted that the Employer i.e. a Goa Milk Dairy, is in the business of processing, packing and sales of processed milk, milk products such as butter, ghee and ice cream etc. and hence it is an 'industry' and the dispute raised by the Workman is an 'industrial dispute' as defined under the Industrial Disputes Act, 1947. He submitted that the action of the Employer in refusing employment to the Workman is also in violation of the provision of section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. He submitted that after refusal of employment, the Workman is unemployed. He therefore submitted that the Workman is entitled for reinstatement along with full back wages, continuity in service and consequential benefits thereof. In support of his oral contention, he relied upon the following decisions.

- (a) In the case of B. K. Yadav v/s. M/s. J.M.A. Industries Ltd., reported in 1993 LLR 584 of Hon'ble Supreme Court of India.
- (b) In the case of Kunal Singh v/s. Union of India and Anr., reported in 2003-II-LLJ 735 of Hon'ble Supreme Court of India.
- (c) In the case of Dhulia K. J. v/s. State of Gujarat and Anr., reported in 2004 (2) GLR 1821 of Hon'ble High Court of Gujarat.
- (d) In the case of Divisional Manager, Ernakulum v/s. Asstt. Secretary, Syndicate Bank, Kochi and Ors., reported in 2014 1 CLR 303, of Hon'ble High Court of Kerala.

14. On the contrary, Ld. Adv. Shri P. Chawdikar, representing the Employer, during the course of his oral arguments submitted that admittedly, the Workman was working with the Employer as 'worker' since the year 2003. He submitted that it has been reported that the Workman had met with an accident and was unable to attend his duties on account of the injuries sustained due to the said accident. He submitted that the Employer has observed that the Workman is unable to perform

his regular duties, which he used to perform before the accident. He submitted that the Employer therefore, vide its letter dated 28-02-2013 and letter dated 05-04-2013 had asked the Workman to get the medical fitness certificate from the Goa Medical College, in order to allow him to resume for his regular duties. The Employer submitted that the Workman is however, failed to obtain such medical certificate till date and as such, they are not in a position to allow the Workman to resume his regular duties. He submitted that the medical fitness certificates of the workman, obtained from the Goa Medical College states that the Workman is fit for the desk job/work. He submitted that presently the Employer does not have any such vacancy, which can be allotted to the Workman. He submitted that the medical certificates obtained from the GMC do not states that the Workman is fit to resume for his regular duties. He submitted that the ESIC certificate submitted by the Workman clearly states that the Workman is permanently disable and no further improvement possible with treatment. The Employer submitted that it has not initiated any enquiry till date on the humanitarian ground and to grant fullest opportunity to the Workman to obtain his fitness certificate to carry out his regular duties. He submitted that since the Employer is not a Govt. Dept., the provision of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 is not applicable to the case in hand. He therefore, submitted that the action of the Employer in refusing employment to the Workman w.e.f. 01-02-2013 is just, fair and proper and the Workman is therefore not entitled to any relief.

I have carefully perused the entire records of the present case. I have also carefully considered the various oral submissions made by the Ld. representatives appearing for the respective parties.

15. *Issue Nos. 2 and 3:* I am deciding the issue Nos. 2 and 3 simultaneously, prior to the issue No. 1 first, as both the said issues touches the very root jurisdiction of this court.

The Employer, as and by way of preliminary objections, raised in its' written statement submitted that neither it is an 'industry' nor the dispute raised by the Workman is an 'industrial dispute' as defined under the I. D. Act, 1947. It is therefore necessary to refer to the definition of the term 'industry' as defined u/s 2 (j) of the I. D. Act, 1947.

16. The term "Industry" means "any systematic activity carried on by co-operation between an Employer and his Workmen (whether such workmen are employed by such Employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not,—

- (i) Any capital has been invested for the purpose of carrying on such activity; or
- (ii) Such activity is carried on with a motive to make any gain or profit, and includes—
- (iii) (a) Any activity of the Dock Labour Board established under section 5-A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948);
- (b) Any activity relating to the promotion of sales or business or both carried on by an establishment,

But does not include—

- (1) Any agricultural operation except where such agricultural operation is carried on in an integrated manner with any other activity (being any such activity as is referred to in the foregoing provisions of this clause) and such other activity is the predominant one.

Explanation.— For the purposes of this sub-clause, "agricultural operation" does not include any activity carried on in a plantation as defined in clause (f) of Section 2 of the Plantations Labour Act, 1951; or

- (2) hospitals or dispensaries; or
- (3) educational, scientific, research or training institutions; or
- (4) institutions owned or managed by organization wholly or substantially engaged in any charitable, social or philanthropic service; or
- (5) khadi or village industries; or
- (6) any activity of the Government relatable to the sovereign functions of the Government including all the activities carried on by the departments of the Central Government dealing with defence research, atomic energy and space;
- (7) any domestic service; or
- (8) any activity, being a profession practiced by an individual or body of individuals, if the number of persons employed by an individual or body of individuals in relation to such profession is less than ten; or

- (9) *any activity, being an activity carried on by co-operative society or club or any other like body of individuals, if the number of persons employed by the co-operative society, club or other like body of individuals in relation to such activity is less than ten."*

17. In the case in hand, though the burden to prove the issue No. 2 is on the Employer, the Employer has failed to produce on record any material evidence, in support of its pleadings that it is not an 'industry' within the meaning of Sec. 2 (j) of the I. D. Act, 1947. On the contrary, the evidence on record indicates that the Employer is a co-op. society registered under the Maharashtra Co-op. Societies Act, then applicable to the State of Goa and the same is now governed by the Goa Co-op. Societies Act and the Rules framed thereunder. The evidence on record indicate that the Employer is engaged in the business of processing and sale of the processed milk and milk products etc. The evidence on record indicates that the milk plant of the Employer is registered under the Factories Act. The evidence on record indicates that the Employer carried out its aforesaid activities systematically with the co-option of its employees. The Employer is therefore an 'industry' within the meaning of Sec. 2(j) of the I. D. Act, 1947. The issue No. 2 is therefore answered in the negative.

18. Similarly, the term 'industrial dispute' has been defined u/s 2 (k) of the I. D. Act, 1947 and it means any dispute of difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person. In the case in hand, it is not in dispute that the Party I is a Workman within the meaning of Sec. 2 (s) of the I.D. Act, 1947. Therefore, the present dispute raised by the Workman pertaining to his non-employment w.e.f. 01-02-2013 is an 'industrial dispute, within the meaning of Sec. 2 (k) of the I. D. Act, 1947.

19. The Employer, as and by way of preliminary objection, further submitted that the present reference filed by the Workman is bad-in-law and hence not maintainable, that the Workman has not given any justification for the demands/claims raised by him and that there is no application of mind by the Appropriate Government while referring the present dispute. Though the burden to prove issue No. 3 is on the Employer, the Employer has failed to adduce on record any material evidence in support of its aforesaid

pleadings. Hence, in the absence of any material evidence, oral or documentary, it is held that the Employer also failed to prove that the reference is bad in law and not maintainable, that the Workman has not given any justification for the demands/claims raised by him and that there is no application of mind by the Appropriate Government while referring the present dispute. The issue No. 3 is therefore also answered in the negative.

20. *Issue No. 1:* To prove the Issue No. 1, the Workman has examined himself and produced on record, documentary evidence in support of his oral evidence. On the contrary, the Employer has examined two witnesses namely, Shri Uday S. Gad, Sr. Chemist and Microbiologist and Shri Priyesh Sawant, the Personnel Officer of the Employer.

21. Ld. Rep. Shri P. Gaokar, representing the Workman, during the course of his oral arguments submitted that the Employer was initially a government department. However, subsequently it was separated from the government and formed a Registered Co-operative society. He submitted that an assurance were given to the workers of the Employer that they will be paid their wages on par with the wages paid to the Government servant from time to time. He therefore submitted that in terms of provisions of Sec. 47 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, the Workman is entitled for re-instatement with full back wages and consequential benefit. It is therefore necessary to go through the relevant provision of the said Act.

22. Section 2 (K) of the said Act defines the term 'establishment' and it means a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Govt. company as defined in section 617 of the Companies Act, 1956 (1 of 1956) and includes Dept. of a Govt. Section 2 (o) of the said Act defines the term 'locomotor disability' and it means disability of the bones, joints or muscles leading to substantial restriction of movement of the limbs or any form of cerebral palsy." Section 2 (t) of the said Act defines the term "persons with disability" and it means a person suffering from not less than forty per cent of any disability as certified by a medical authority. Further, Sec. 47 of the said Act reads as under:

"47. Non-discrimination in Govt. employments-

(1) No establishment shall dispense with or reduce in rank, an employee who acquires a disability during his service:

Provided that, if an employee, after acquiring disability is not suitable for the post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of the supernumerary, whichever is earlier.

(2) No promotion shall be denied to a person merely on the ground of his disability:

Provided that the appropriate Govt. may, having regard to the type of work carried on in any establishment by notification and subject to such conditions, if any, as may be specified in such notification exempt any establishment from the provisions of this section."

23. Thus, the aforesaid provisions of the said Act make it very clear that Sec. 47 of the said Act is applicable only to the 'establishment' as defined under section 2(k) of the said Act. The Workman has however, failed to produce on record any material evidence to prove that the Employer is an 'establishment' within the meaning of section 2(k) of the said Act nor proved that his disability is 40% or above as required, for applicability of the said Act. In the absence of the same, the Workman failed to prove the applicability of the said Act in question to the Employer society. Consequently, the judgments of Hon'ble Supreme Court of India, Hon'ble High Court of Kerala and Hon'ble High Court of Gujrat relied upon by Shri P. Gaonkar are not applicable to the case in hand. Hence, I do not find any merits in the submission of Ld. Rep. Shri P. Gaonkar, appearing for the Workman that the Workman is entitled for re-instatement with full back wages and consequential benefit in terms of provisions of Sec. 47 of the Person with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

24. Undisputedly, the Workman met with an accident on 23-12-2011, while on his way to his native place at Dharbandora-Mollem road and as a result of which, he was admitted in Goa Medical College, Bambolim-Goa. The evidence on record indicates that since the date of his motor vehicular accident, the Workman was under ESIC leave till 31-01-2013. He was under treatment of the doctors of GMC, Bambolim and subsequently under ESIC Dispensary, Ponda-Goa. The evidence on record indicates that the Workman had requested the Employer to allow him to resume for his duties, vide his letter dated 30-01-2013 at Exb. 16. The evidence on record indicates that the Workman

had also enclosed the medical certificates along with his letter at Exb. 16. The evidence on record indicates that the Workman was however, not allowed to resume for his duties w.e.f. 01-02-2013. The evidence on record indicates that the Employer had requested the Goa Medical College, Bambolim-Goa, for issuance of medical certificate, vide its letter dated 05-04-2013. The evidence on record indicates that the Goa Medical College, Bambolim has issued a medical certificate dated 10-04-2013 at Exb. 19 to the Employer stating that "the Workman is fit for the desk job". The evidence on record further indicates that the Employer, vide its another letter dated 19-06-2013, requested the Medical Superintendent, Goa Medical College, Bambolim-Goa, for a certificate pertaining to the working ability or disability of the Workman. The evidence on record indicates that the Medical Superintendent, Goa Medical College, Bambolim refused to issue him any other Medical Certificate as desired by the Employer vide its letter dated 19-06-2013 by examining the workman.

25. The evidence on record indicates that the Workman was initially working as 'worker' on daily wage basis. The service of the Workman was subsequently regularized by issuing him an appointment letter dated 01-04-2010 (Exb.12). Thus, the Workman was continuously working with the Employer since the year 2003 till he was refused the employment w.e.f. 01-02-2013. The evidence on record further indicates that the Workman was designated as 'Lab. Attendant' in Quality Control department of the Employer. The evidence on record indicates that there were altogether 14 employees working in the Quality Control department of the Employer. The evidence on record indicates that the Workman was refused the employment w.e.f. 01-02-2013. The said refusal of employment to the Workman w.e.f. 01-02-2013 amounts to termination of services of the Workman. The evidence on record indicates that neither one month notice nor one month pay in lieu of notice, retrenchment compensation etc. was paid to the Workman at any time, before the refusal of employment to him nor conducted any disciplinary enquiry by issuing him show cause notice or charge-sheet. Thus, the action of the Employer in refusing employment to the Workman w.e.f. 01-02-2013 is in violation of the principles of natural justice as well as in violation of Sec. 25-F of the I. D. Act, 1947.

26. The Employer, in its written statement filed in the present proceedings contended that they have observed that the Workman is unable to perform his duties, which he used to perform before

his accident that the Workman has failed to obtain his medical fitness certificate, that they do not have any suitable desk job which can be allotted to the Workman till date and that the Employer further contended that they did not initiate any enquiry against the Workman till date only on humanitarian ground in order to grant fullest opportunity to the Workman to obtain his fitness certificate to carry out his regular duties.

27. The evidence on record indicates that the Employer do possess its Certified Standing Orders, which governs the service conditions of its employees including the Workman under reference. Clause 23 of the said Certified Standing Orders of the Employer as well as clause 14 of the appointment letter issued to the Workman indicates that the Employer, at his discretion, may call any workman, during his period of employment to appear for medical examination by the firm's doctor or by doctor nominated by the firm to find the fitness or otherwise to continue his employment in the establishment. Services of the Workman, who is found to be medically unfit for employment shall be terminated forthwith. However, the Workman shall have the right to be examined by the Goa Medical College authority and decision of such authority shall be binding. In terms of the aforesaid clause 23 of the Certified Standing Orders of the Employer, it is the discretion of the Employer to call upon any Workman during his period of employment to appear for medical examination to find his fitness or otherwise to continue his employment in the establishment. The Employer has however, could not able to produce on record any medical unfit certificate from the doctor of their firm or from the doctors of the GMC, Bambolim, Goa. Therefore, in the absence of any medical unfit certificate, certifying the Workman unfit for the employment, it is not possible to accept the contention of the Employer that the Workman is unable to perform his duties, which he used to perform before his accident that the Workman has failed to obtain his medical fitness certificate.

28. The evidence on record indicates that the Workman was appointed as 'worker' and he was placed in the pay scale of Rs. 2550/- which was applicable to the unskilled workers of the Employer. The evidence of record indicates that at the relevant time, the Employer was having seven employees designated as 'worker'. The evidence of record indicates that the Workman was initially

working in marketing department of the Employer for 5-6 years and was performing the duties such as to attend the telephone calls, to take orders for milk telephonically from various customers, to clean the table and sweeping. The evidence of record indicates that the Workman was subsequently deployed in quality control department and designated as 'Lab. Attendant'. The primary duties of the said post designated as Lab. Attendant were to test the milk by way of smelling, to take sample of milk, to sweep and clean the premises, to test the degree of milk by inserting the lactometer and to clean the sample of milk bottles etc. Thus, the primary nature of duties, which the Workman was performing at the relevant time were unskilled in nature. Upon perusal of the aforesaid duties of the Workman, which he was performing as worker or Lab. Attendant prior to his accident, it is seen that most of the duties can be performed by sitting on a chair or table. The evidence on record indicates that the Employer has failed to justify the specific nature of duties, which the Workman was bound to perform as Lab. Attendant or worker and which he was unable to perform on or after 01-02-2013. In view of the above, I do not find any merits in any of the aforesaid contention of the Employer. Hence, it is held that the action of the Employer in refusing employment to the Workman w.e.f. 01-02-2013 is illegal and unjustified. The issue No. 1 is therefore answered in the affirmative.

29. *Issue No. 4:* Undisputedly, the Workman met with a serious motor vehicle accident on 23-12-2011 and was under the treatment of doctors of GMC, Bambolim and subsequently under ESIC dispensary, Ponda, Goa. The evidence on records indicates that the Workman is unemployed from the date of his refusal of employment till date. The Workman was in the services of the Employer continuously from the year 2003 till the date of his refusal of employment w.e.f. 01-02-2013. The Workman, is therefore entitled for reinstatement along with 70% of back wages with continuity in service and consequential benefits.

In view of above, I proceed to pass the following order:

ORDER

1. It is held that the action of M/s. Goa State Co-op. Milk Producers Union Limited, Curti, Ponda, Goa in refusing employment to Shri Dnyaneshwar Chopde, is illegal and unjustified.

2. The Workman, Shri Dnyaneshwar Chopde is therefore entitled for reinstatement along with 70% of back wages with continuity in service and consequential benefits.

3. No Order as to cost.

Inform the Government accordingly.

Sd/-
(Suresh N. Narulkar)
Presiding Officer
Labour Court-II

Department of Official Language

Directorate of Official Language

Order

No. 4/3/DOL/RTI-2012 (III)/352

In pursuance of clause 5 of the Right to Information Act, 2005, the following officers are hereby appointed as Public Information Officer and Assistant Public Information Officer in the Directorate of Official Language, to deal with the applications received from the public under the Right to Information Act, 2005.

Sr. No.	Designation	Officers designated under Right to Information Act, 2005
1.	Assistant Director (Konkani), Head of Office	Public Information Officer.
2.	Jr. Stenographer	Assistant Public Information Officer (Administration Section).
3.	UDC	Assistant Public Information Officer (Accounts Section).

The Public Information Officer shall be responsible for the preparation and publication of the manuals and updating the manuals from time to time as per the said Act.

The Assistant Public Information Officer shall ensure that the applications received by him/her for information under the Right to Information Act, 2005 are submitted on top priority to the Public Information Officer so as to furnish the information to the applicant within the provisions of the Act.

The Director of Official Language will be the First Appellate Authority in pursuance of Clause 19 (1) of the Right to Information Act, 2005.

This order supersedes the earlier Order No. 4/3/DOL/RTI/2012(III)/619 dated 5-8-2015 published in Official Gazette Series II No. 20 dated 13-8-2015.

Dr. *Prakash Vazrikar*, Director & ex officio Joint Secretary (Official Language).

Panaji, 12th July, 2016.

Department of Personnel

Order

No. 15/5/97-PER (Part)

On the recommendation of the Goa Services Board and approval of the Government, the transfer of the following Officers in the cadre of Block Development Officer are ordered with immediate effect in public interest:-

Sr. No.	Name of the officer and designation	Transfererd as
1.	Shri Premanand K. Naik, BDO-II, Ponda holding additional charge of BDO, Salcete-II.	BDO, Mormugao.
2.	Shri Milindra G. Velip, BDO, Canacona	BDO, Salcete-II, thereby relieving Shri Premanand K. Naik of the additional charge.

Shri Prasiddh P. Naik, BDO, Ponda-I, shall hold additional charge of the post of BDO-II, Ponda and Shri Bhagwant A. Karmali, BDO, Quepem, shall hold additional charge of the post of BDO, Canacona.

By order and in the name of the Governor of Goa.

Meghana Shetgaonkar, Under Secretary (Personnel-I).

Porvorim, 1st July, 2016.

Order

No. 6/4/91-PER(Part IV)

On the recommendation of Goa Services Board and with the approval of the Government, Smt. Upasana Mazgaonkar, Secretary, Goa Human Rights Commission is hereby transferred and posted as Secretary, Goa Konkani Academy. Smt. Mazgaonkar shall hold additional charge of the post of SLARO, EDC and SLAO, GSIDC until further orders.

Consequently, Shri Siddhivinayak Naik, Addl. Inspector General of Prisons shall hold additional charge of the post of Secretary, Goa Human Rights Commission in addition to his own duties and until further orders.

Smt. Upasana Mazgaonkar shall be on deputation and her appointment shall be governed on standard terms of deputation as contained in Office Memorandum No. 13/4/74-PER dated 12-02-1999 and as amended.

By order and in the name of the Governor of Goa.

Meghana Shetgaonkar, Under Secretary (Personnel-I).

Porvorim, 5th July, 2016.

Department of Public Health

Order

No. 44/15/2016-I/PHD/1189

Government is pleased to appoint Dr. Elyska De Sa as Paediatrician (with Specialization in Development and Behavioural Paediatrics) on contract basis, on par with Junior Paediatrician under Directorate of Health Services and post her at Hospicio Hospital, Margao, on consolidated salary of Rs. 45,000/- per month, with immediate effect for a period of one year or till the post is filled on regular basis, whichever is earlier.

This issues with the approval of Cabinet and concurrence from Finance (R&C) Department vide U. O. No. 1345 dated 21-05-2016.

By order and in the name of the Governor of Goa.

Anthony J. D'Souza, Joint Secretary (Health).

Porvorim, 12th July, 2016.

Department of Women & Child Development

Directorate of Women & Child Development

Order

No. 2-109(6)-2010/DWCD/5145

Government approval is hereby conveyed in exercise of the powers conferred by Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015, to depute below mentioned members forming panel of 4 members to assist the Juvenile Justice Boards North Goa and South Goa to ascertain the gravity of offence and recommend whether the case has to be transferred to Children's Court of the same needs to be dealt by Juvenile Justice Boards under the said Act. Below mentioned members are appointed on the panel.

Sr. No.	Name of the member/organization on panel deputed	Designation
1.	Doctor nominated by Institute of Human Behaviour, Bambolim-Goa	Member.
2.	Member of Goa State Commission for Protection of Child Rights, Sakhardande Apts., Panaji-Goa	Member.
3.	Representative of SCAN NGO, Mount Unique, Building No. 2, House No. 6, Opp. AIR, Altinho, Panaji-Goa	Member.
4.	Asst. Professor, V. M. Salgaocar College of Law, Miramar-Goa	Member.

The panel constituted will be functional as and when they are called upon by the authorities of Juvenile Justice Board North and South Goa to assist in deciding the gravity of offence, the case to be dealt by Juvenile Justice Board or to be transferred to the Children's Court for the State of Goa.

By order and in the name of the Governor of Goa.

Shilpa Shinde, IAS, Director & ex officio Joint Secretary (Women & Child Development).

Panaji, 4th July, 2016.

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Published and Printed by the Director, Printing & Stationery,
Government Printing Press,
Mahatma Gandhi Road, Panaji-Goa 403 001.

PRICE—Rs. 19.00

PRINTED AT THE GOVERNMENT PRINTING PRESS, PANAJI-GOA-109/350-7/2016.